

The Commonwealth of Virginia...

Chesapeake Bay Local Assistance Department

Bay Act News



"Healthy state and local economies and a healthy Chesapeake Bay are integrally related; balanced economic development and water quality protection are not mutually exclusive." - The Bay Act



**Bay Act News
Issue 6
September, 2003**

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Program Notes:

**Scott Crafton,
Executive Director**

It is not unusual for regulatory agencies to be asked to provide guidance and interpretations of their regulations by those who must implement them. A guidance document does not have the legal force of a regulation. The Virginia Administrative Process Act does not require public participation and comment in the development of guidance. However, it may be wise to involve stakeholders to assure balance is achieved. Those receiving the guidance might apply it more rigidly than intended or choose to ignore it altogether. Therefore, the content of guidance can often be a touchy subject. This has been true here at CBLAD over the past several months.

Of particular note, a draft *Buffer Modification and Mitigation Manual* released for public comment in early June has been the target of much concern and comment by affected stakeholders. In response to the comments of both stakeholders and Board members, significant changes have been made to the earlier draft. The Board's Policy Committee met on August 26th to consider the revisions, along with several other guidance documents. With a few additional edits directed by the Committee members, they plan to recommend approval of all these documents by the full Board at their meeting on September 15th.

The Committee considered two other documents that involved a special ad hoc advisory committee created by Secretary of Natural Resources Tayloe Murphy to build consensus among Bay Act stakeholders regarding the guidance provided. These two documents, *Determinations of Water Bodies with Perennial Flow and*

Administrative Procedures for the Designation and Refinement of Chesapeake Bay Preservation Area Boundaries, provide Board approved protocols for identifying perennial streams in the field and guidance regarding how to appropriately denote related RPA boundary adjustments on local Chesapeake Bay Preservation Area maps. It is significant that these two documents have been developed cooperatively and with consensus because of the process we used. While the buffer manual employed two advisory committees – one composed of local government staff and the other of scientific and technical experts – neither included the full range of Bay Act stakeholders. Eventual criticisms of the document came largely from interests not involved in its development.

There is a lesson in this experience. The Board has agreed that CBLAD will create a standing ad hoc advisory committee to assist staff with the development of regulatory guidance materials. By airing issues and building consensus along the way, ultimate draft documents presented to the Board for consideration will be balanced, reasonable and accurate reflections of the regulations.

CBLAD Welcomes New Board Members...

Walter Jervis Sheffield represents the localities within the RADCO Planning District Commission, Planning District 16. Mr. Sheffield is practicing attorney, and former Vice Mayor of the City of Fredericksburg, Virginia. He is a graduate of Old Dominion University (B.A.), Emory University (J.D.), and New York University (L.L.M.) His term runs to 2007.

William E. Duncanson represents the localities within the Northern Neck Planning District Commission, Planning District 17. Mr. Duncanson is currently the County Administrator for Richmond County, and also serves on the Board of the Northern Neck Chesapeake Bay Region Partnership. He is a graduate of Virginia Commonwealth University (B.S. Biology). His term runs to 2007.

Michael V. Rodriguez represents the localities within the Southeastern Portion of the Hampton Roads Planning District Commission, Planning District 23. Mr. Rodriguez is Vice President and Treasurer for Bay Mechanical, Inc., and serves on the Board's of the Samaritan House and the Virginia Beach Vision, Inc. He is a graduate of Radford University (B.S. Business Finance). His term runs to 2007.

... and Staff!



Heather Mackey has a bachelor's degree from Mary Washington College - double major in Art History and Historic Preservation, with a minor in Architectural History, and a MS in Urban Planning from the University of Virginia, with an Urban Development concentration. Heather worked in the private sector before working for the City of Richmond. During her six year tenure with the City as an Environmental Planner, Heather worked extensively with their Chesapeake Bay Act program and was also involved in the development of the environmental element of the City Master Plan.

Ryan Link graduated in 1996 from Virginia Tech with a BS in Wildlife Science, then in 1998 with a MS in Urban and Regional Planning. He recently achieved membership with AICP. Ryan has worked in the community and economic development field for over 5 years, most recently as a Community Representative for the Virginia Department of Housing and Community Development, where he assisted local governments with project planning and development and provided technical assistance in CDBG program compliance.



Partnership Agenda - Moving Virginia's Environment Forward!

by W. Tayloe Murphy, Jr., Virginia Secretary of Natural Resources

Throughout my career as a public servant, first in the legislative branch and now in the executive branch, I have always believed that every stakeholder should have a seat at the table where environmental policy is made, and that consensus building offers the best hope for timely success in resolving our problems.

With Virginia's natural resources facing a host of challenges, bringing together leaders from across the Commonwealth to explore these challenges was the thinking behind Governor Warner's Natural Resources Leadership Summit. Held in Williamsburg in early April, the summit brought together a diverse group of approximately 130 business, conservation, local and state government, outdoor recreation, fisheries, sportsmen, historic preservation and development community leaders. This summit was the first working session of its kind in Virginia.

"The way we manage our natural resources has an impact on every Virginian today and well into the future," said Governor Warner in calling for the summit. "For that reason, we felt it was critical to bring together the best minds from across the state, representing diverse interests, to develop an active partnership agenda that will help direct natural resource initiatives for at least the next three years."

As Secretary of Natural Resources, I have been charged by the Governor to help move Virginia forward. We are doing so with detailed actions to help strengthen the Commonwealth's protection of natural and historic resources as a result of those two days in April. But we need the help of all Virginians from across the Commonwealth. No matter what your interests, we hope you will join us.

The very clear message from summit participants is that Virginia must do more to ensure the health and viability of our environment and the great variety of resources we enjoy. We are charting a new course that relies on commitments for cooperative efforts among state agencies, environmental and business organizations, local governments and others.

There were two key objectives that motivated the planning for the summit. The first goal was to get the participants to look at Virginia's natural and historic resources and the agencies that manage them in a more holistic way. Doing so will build stronger allegiances between departments and identify ways to make all natural resource programs mutually supportive.

The second objective was to generate the best ideas for new or improved initiatives, and to galvanize support for a new and expanded coalition of diverse interests that will work hard to advance common natural and historic resource goals.

As I reflect upon the purposes of the summit, and after having observed many of the participants in action, I would have to conclude that it was an unqualified success. I observed a great deal of energy and optimism in each of the individual sessions, and even with the diversity of participant interests, I saw strong support for the accomplishment of great things in natural resource conservation. I think we all discovered that there are large areas of agreement, which clearly outweigh differences that may exist.

Participants at the summit broke up into groups addressing four major issues: water resources, land conservation, outdoor recreation, and fisheries and wildlife resources. Each group also addressed several "cross-cutting" issues: funding, pollution prevention and environmental education.

The two days of sessions resulted in more than 50 pages of thoughts, ideas, proposals and recommendations. These have been passed on to all of Virginia's natural resources agencies for their use as they begin strategic planning for the next biennium.

These 50 pages of summit ideas were further refined, and at the Environment Virginia Conference held at Virginia Military Institute in late April where I had the pleasure of presenting the Virginia Natural Resources Partnership Agenda.

This agenda allows the Commonwealth to build on our recent accomplishments such as ranking second in the country in lands protected by permanent conservation easements, the passage of a \$119 million bond referendum to acquire parklands and natural areas and improve existing state parks, reducing pollution reaching the Chesapeake Bay and meeting our riparian buffer goal eight years ahead of schedule. It also reinforces the Governor's previous commitments such as establishing a comprehensive water plan and redoubling our efforts to restore the Chesapeake Bay watershed.

It will also allow us to address current shortcomings such as each year losing 49,000 acres of forest land and prime agricultural crop land to development, having blue crab populations at near historic lows and our native oyster population threatened with disease. The Commonwealth also has more than 650 stream segments that do not meet one or more of our water quality standards and must be cleaned. In some portions of the Commonwealth our growth patterns are not conducive to habitat protection and efficient transportation. And, we currently have no permanent source of funding for land conservation and for financial incentives that promote water quality improvement through both point and nonpoint source programs.

Most of the agenda's initiatives called for the development of specific plans or reports. The majority also includes specific due dates for products. In addition, the partnership agenda calls for public-private task forces to look at ways to promote exceptional environmental compliance and to enhance environmental education.

During the summit, no single issue generated as much discussion, support and concern as funding for Virginia's natural and historic resources programs. These programs have been historically under-funded when compared to program needs and budget crises have compounded the problem. The impact of these cuts on operations and programs has been largely due to the smaller environmental budgets. With only six-tenths of one percent of the state general fund budget committed, Virginia currently ranks 50th among the states in spending on natural resources.

As a result of these discussions Governor Warner has pledged to minimize effects on natural and historic resource agendas if further belt tightening is needed. He also has appointed a commission make funding recommendations by this September and he has pledged to work with Virginia's congressional delegation to ensure the Commonwealth receives its full share of federal natural resource dollars.

Also, in order to sustain the momentum and broad-based engagement generated by the summit, a Natural Resources Partnership is being created consisting of a cross-section of individuals from business, industry, local government, outdoor recreation, environmental, preservation and conservation interests. I will chair the partnership with the natural resources agency heads as ex officio members.

I do not see this partnership agenda as the end product of a two-day summit. Rather, I see it as the continuation of a commitment by this administration to fully involve our citizenry in the protection of our precious landscapes, historic and natural resources. The partnership agenda proposes very few new ideas. But it does provide a workable framework for moving forward to keep Virginia an enjoyable and healthy place to work and live.

I call on each of you to heed the call, to get involved and make a difference. My office and the agencies in our natural resources secretariat stand ready to work with you as we move forward together to create a Virginia of which we can all be proud.

The next Chesapeake Bay Local Assistance Board meeting is Monday, September 15, 2003, 10:00 a.m. in Conference Room "C" within the James Monroe Building – Main Level, 101 N. 14th Street – Richmond, Virginia.

Save the Date! 2003 Virginia Coastal Partners Workshop Coming in December

The 2003 Virginia Coastal Partners Workshop will be held December 3, 4 & 5 in Williamsburg, Virginia at the Williamsburg Woodlands Conference Center. Registration will be required. Topics on the agenda: ecotourism, coastal hazards, dunes management, low impact development, shoreland planning, special area management planning, tributary strategies, shallow water management, habitat restoration - SAV, wetlands and riparian buffers, land acquisition, coastal nonpoint pollution control program updates (opportunities for local project funding to be covered) and a special tour of our coastal historic and cultural resources. A pre-workshop session on wetlands will be offered on Wednesday, December 3. Visit and bookmark the Virginia Coastal Program Web site <http://www.deq.state.va.us/coastal/whatnew.html> for more information and registration details.

Intensely Developed Areas—Policy Issues to be Addressed

At the August 26th, 2003 meeting of the Chesapeake Bay Local Assistance Board's Policy Committee, representatives of the Hampton Roads Planning District Commission (HRPDC) and localities continued a discussion of the Intensely Developed Area (IDA) provisions of the Bay Act Regulations, following up on earlier discussions between staffs of the Department and these localities. In particular, the Board is being asked to provide guidance regarding the meaning of the overriding criteria for IDA designation: "... little of the natural environment remaining ..." and how this should be interpreted during the designation of IDA's.

Of primary concern to these urban localities are older residential areas that have buffer areas that are primarily lawns and, therefore, may not perform the functions of a fully forested buffer, and how to process requests to locate accessory structures on these lots. John Carlock from the HRPDC presented examples of these issues at the policy meeting, and Department staff presented a history of Board policy regarding implementation of the IDA provisions, including the description of the characteristics of existing IDA's previously approved by the Board. Department staff also discussed the potential implications of the interpretation suggested by the HRPDC and representative localities.

The Policy Committee decided that since this issue could have broad policy implications, some of which are not clear at this time, more time is needed to work with all Tidewater localities and stakeholders to ensure that all interested and affected parties have an opportunity to participate in the discussions and the resulting interpretation and guidance will protect and improve water quality, as required under the Act. The Policy Committee declared that the Board could not make a well-informed final decision by the September 15, 2003 Board meeting, but that the issue could be discussed further at that meeting to allow the other Board members the opportunity to hear the issues.

The Policy Committee asked Department Director Scott Crafton to refer this matter to an ad-hoc advisory committee (similar to the one that developed the guidance regarding water bodies with perennial flow) to investigate this issue and provide recommendations to the Board. The Policy Committee further expressed their desire that the issue be resolved by the end of the calendar year. In the meantime, the Committee directed CBLAD staff to work with individual localities interested in designating expanded or new IDAs.

If you are interested in this issue, would like more information on the discussions, or wish to provide comments or participate in the discussions, please contact Martha Little, Chief of Planning at CBLAD, at (804) 371-7501 or mlittle@cblad.state.va.us.

2nd Annual Bay Act Workshop:
Streams and Buffers: Their Identification, Protection, and Restoration

September 17, 2003

Draft Agenda

8:30 - 9:00 Registration

9:00 - 9:10 *Welcoming Announcement – Scott Crafton, Executive Director, CBLAD*

9:10- 9:30 *Opening Remarks – Secretary of Natural Resources W. Tayloe Murphy, Jr.*

Ad Hoc Advisory Committee Recommendations - Moderator Scott Crafton (CBLAD)

9:30 – 10:00 *Administrative Mapping, Martha Little, (CBLAD)*

9:45 – 10:15 *Methods For Determining Water Bodies With Perennial Flow,
Catherine.Harold, (CBLAD)*

10:15 – 10:30 *Break*

RPA Determinations - Moderator Shawn Smith (CBLAD)

10:30 - 11:00 *Screening Method For Site Specific Resource Protection Area Determinations
Joan Salvati (Chesterfield County)*

11:00 - 11:30 *Fairfax County Stream Classification and Mapping Project
Matt Myers (Fairfax County)*

11:30 – 12:00 *Questions and Answers*

12:00 – 1:00 *Lunch*

The Riparian Buffer - Moderator Nancy Miller (CBLAD)

1:00 – 2:00 *The Value and Function of Riparian Buffers – Dr. William Reay,
Director of Chesapeake Bay National Estuarine Research Reserve Virginia*

2:00 – 2:30 *Vegetative Planting Recommendations – Alli Baird, CBLAD*

2:30 – 2:45 *Break*

2:45 – 3:15 *York County Riparian Buffer Video – Anna Drake, York County
Department of Environmental and Development Services*

3:15 – 3:45 *Question and Answers*

3:45 – 4:00 *Closing Remarks and Awarding of Door Prizes - Alex Adams (CBLAD)*

Registration Form for CBLAD Workshop Wednesday-September 17th 2003

Holiday Inn - Central

Richmond VA

8:30 am - 4:30 pm

Chesapeake Bay Local Assistance Department

Fax: (804) 225-3447 Phone: (800) CHES-BAY

Email: rwood@cblad.state.va.us

This workshop is targeted for local Bay Act Program Coordinators and staff. Due to limited space, Program Coordinators will have registration preference. Additional registrations will be accepted as space permits. (use your tab key to move between fields)

Name: _____; Title: _____

Locality: _____; Phone #: (____) ____ - ____

Email address: _____

Mailing address: _____

Continental Breakfast and Lunch will be provided.

Registration: Please fax this form to Ron Wood, care of Teresa Fogg at CBLAD, (804) 225-3447. Forms must be received by September 10, 2003. All localities are guaranteed at least one reservation. Additional reservations will be accepted as space permits on an equitable basis.

Confirmation: Participants will be notified via email, phone or mailings by September 12th, 2003. To check on a confirmation please call (804) 225-3442 or email Ron Wood rwood@cblad.state.va.us

Directions: From I-64 West or I-95 North; Take exit 78 (Boulevard exit), bear left, the Holiday Inn is at the end of the off ramp.

From I-64 East or I-95 South; Take exit 78 (Boulevard exit), bear right, the Holiday Inn will be at the end of the off ramp.

Contact Information

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The Honorable Donald W. Davis,
Middle Peninsula Planning District

The Honorable Colin D. Cowling, Jr.,
Accomack-Norfolkhampton Planning District

The Honorable David C. Froggatt, Jr.,
Crater Planning District

The Honorable Daniel B. Nice,
Hampton Roads Planning District,
Peninsula Portion

The Honorable Michael V. Rodriguez,
Hampton Roads Planning District,
Southeastern Portion

The Honorable William E. Duncanson,
Northern Neck Planning District

The Honorable Walter Jervis Sheffield,
RADCO Planning District

The Honorable Susan H. Fitz-Hugh
Richmond Regional Planning District

The Honorable Stuart Mendelsohn,
Northern Virginia Planning District

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